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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 09/991,200   | 11/16/2001  | Samuel Cavallaro     | 2000P09062US01         | 3398             |
| 7590 03/05/2007<br>Jack J. Schwartz & Associates<br>1350 Broadway<br>Suite 1507<br>New York, NY 10018-7702 |             |                      | EXAMINER<br>VO, LILIAN |                  |
|  |             |                      | ART UNIT<br>2195       | PAPER NUMBER     |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 03/05/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 09/991,200             |  | CAVALLARO ET AL.    |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Lilian Vo              |  | 2195                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 - 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 1 – 8 are pending.

#### *Claim Rejections - 35 USC § 102*

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 6 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Choi (US 6275741).

3. Regarding **claim 1**, Choi discloses a workstation, comprising;

a display device (figs. 1: 40 and 2: 382, col. 4 lines 58 – 67, col. 7 lines 58 - 60);

a processor, coupled to the display device (fig. 1: 46, ), executing:

a general purpose operating system, controlling execution of a selected one of a plurality of non-real-time application programs for displaying images representing non-real-time data on a display device (col. 3 lines 22 – 23, col. 5 line 45 – col. 6 line 58: computer using a plurality of predetermined programs such as resin injection, mold clamp operation, internet browsers, word processing, spreadsheet, etc.); and

a real-time kernel, controlling execution of a process for displaying images representing real-time data on the display device concurrently with the display of the non-real-time data (col. 2 line 55 – col. 3 line 5, col. 5 lines 61 – 64, col. 6 lines 5 – 30);

wherein the general purpose operating system and the real-time kernel are both arranged to executed as processes on the processor using a common operating system kernel (col. 6 lines 5 – 36, 59 – col. 7 line18); and

a circuitry, responsive to user input, for selecting the non-real-time display program from among a plurality of available non-real-time display programs (fig. 1: 30, col. 6 lines 21 - 30).

4. Regarding **claim 2**, Choi discloses the general purpose operating system executes simultaneous with and independent from the real-time kernel (col. 5 lines 45 – 64, col. 6 line 59 - 18).

5. Regarding **claim 3**, Choi discloses a storage device, couple to the processor, wherein the plurality of non-real-time application programs are stored on the storage device and the general purpose operating system selects one of the stored plurality of non-real-time application programs that responsive to user input (col. 6 lines 21 – 30, col. 10 lines 43 - 47).

6. Regarding **claim 4**, Choi discloses a storage device stores code and data presenting the non-real-time application programs and the processor retrieves the stored code and data representing the selected non-real-time application and controls the execution of the retrieved code and data (col. 6 lines 21 – 30, col. 10 lines 43 - 47).

7. Regarding **claim 5**, Choi discloses a connection to a network comprising a server capable of storing the plurality of available non-real-time application programs and the general purpose

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operating system selects one of the stored plurality of non-real-time application programs that responsive to user input (col. 6 lines 21 – 30, col. 10 lines 43 - 47).

8. Regarding **claim 6**, Choi discloses the server stores code and data presenting the non-real-time application programs and the processor retrieves the stored code and data representing the selected non-real-time application and controls the execution of the retrieved code and data (col. 6 lines 21 – 30, col. 10 lines 43 - 47).

9. Regarding **claim 8**, Choi discloses the displayed image concurrently displays both non-real time and real time data (col. 2 line 55 – col. 3 line 5, col. 6 lines 1 - 30).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Choi (US 6275741) in view of Nafis et al. (WO 94/24631, hereinafter Nafis).

12. Regarding **claim 7**, Choi did not disclose the real-time data is physiological data. Nevertheless, Nafis discloses a computer graphic system which displays both real-time imaging data and computer generated non-real time images concurrently on the same screen in order to

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assist surgeons during operations (figs. 2 – 5, page 7 lines 16 - 18). It would have been obvious for one of an ordinary skill in the art, at the time the invention was made, to implement Choi's real time data with the physiological data as disclosed from Nafis because Choi's system is capable of performing real time tasks as desired.

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1 - 8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Thursday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

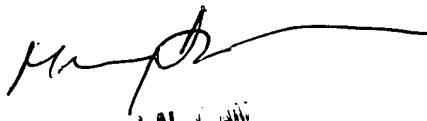
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lilian Vo  
Examiner  
Art Unit 2195

lv  
March 1, 2007

  
MENG-AL T. AN  
SUPERVISORY PATENT EXAMINER  
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